

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 8TH JANUARY 2007 / 18TH PAUSHA 1928

Crl.MC.No. 4096 of 2006()

SC.1162/2004 of ASSISTANT SESSIONS COURT, THALASSERY

PETITIONER: ACCUSED:

U.K.MUHAMMED SHAJAHAN,
S/O.ABDUL MAJEED, UKKASKANTAVIDA KUNIMAL,
THAYYIL, KANNUR.

BY ADV. SRI.M.K.SUMOD
SRI.KAUSER EDAPPAGATH

RESPONDENTS: COMPLAINANT:

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1. P.MUBASHIRA,
D/O.K.P.MUSTHAFFA, UKKASKANTAVIDA KUNIMAL,
THAYYIL, KANNUR.
 2. SUB INSPECTOR OF POLICE,
KANNUR CITY POLICE STATION, KANNUR.
 3. THE STATE OF KERALA,
REP.BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

ADDL.4: P.RAZIYA, W/O.K.P.MUSTHAFFA,
UKKASKANTAVIDA KUNIMAL,
THAYYIL, KANNUR

(ADDL.4 IS IMPEADED AS PER ORDER IN CRL.M.A.NO.94/07 DATED 08/01/07)

BY ADV. SMT.A.LOWSY
PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 08/01/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

Crl.M.C.No.4096 of 2006

Dated this the 8th day of January 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 366(A) I.P.C. The crux of the allegations against him is that he had committed the said offence against the first respondent herein as also the additional fourth respondent. The first respondent is the daughter of the additional fourth respondent.

2. The petitioner, along with first and additional fourth respondent has filed a petition as Crl.M.A.No.95/07 in which it is reported that the parties have settled all their disputes. The petitioner and the first respondent were in-law and the allegation relates to the elopement of the first respondent with the petitioner herein. The additional fourth respondent had filed a complaint. The first respondent was a minor at the relevant point of time.

3. The learned counsel for the petitioner as well as the counsel for respondents 1 and 4 submit that all disputes between the parties have been settled amicably. The petitioner has

married the first respondent. A child was born in the wedlock on 26/4/2005. The petitioner and the first respondent are living a happy and harmonious married life. The fourth respondent has no grievance now and the matter has been settled. In these circumstances, it will be traversity of justice to compel the petitioner to face the prosecution even now. The petitioner is the sole accused in S.C.No.1162/2004. In these circumstances, the learned counsel for the petitioner and the counsel for the respondents 1 and 4 pray that the composition may be taken note of and this prosecution which has lost all its meaning, relevance and significance may be put an end to by invoking the powers under Section 482 Cr.P.C. The learned counsel for the respondent submits that the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] may be invoked even though the offence under Section 366A I.P.C is not a compoundable offence.

4. Having considered all the relevant inputs, I am persuaded to agree with the learned counsel for the petitioner and respondents 1 and 4 that this is an eminently fit case where the interests of justice do transcend the interests of mere law

and the powers under Section 482 Cr.P.C can be invoked to quash the prosecution against the petitioner for the non-compoundable offence punishable under Section 366(A) I.P.C. In coming to this conclusion, I have taken note of the very peculiar and exceptional circumstances which are available in this case and it is hence I feel that powers under Section 482 Cr.P.C can be invoked.

5. In the result, this Criminal Miscellaneous Case is allowed. S.C.No.1162/2004 pending before the Principal Sub Court, Thalassery is hereby quashed.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006